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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160426363-7275-02]

RIN 0648-XF351

Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; Reopening of the Commercial Sector in the Western, Northern, and Southern (Gillnet) Zones for King Mackerel in the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reopening.

SUMMARY: NMFS reopens the commercial sector for king mackerel in the western and northern zones, and the run-around gillnet component in the southern zone of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) through this temporary rule. NMFS recently published a final rule that modified the zones and annual catch limits (ACLs) for king mackerel in the Gulf EEZ, which increased the commercial quotas for king mackerel. This final rule will be effective on May 11, 2017. Therefore, NMFS is reopening the western, northern, and southern (gillnet) zones of the Gulf EEZ because there is available king mackerel commercial quota to harvest in these zones at 12:01

a.m., local time, on May 11, 2017, through the end of the respective 2016-2017 fishing year or until the applicable commercial quotas are reached, whichever happens first. NMFS intends through this temporary rule to maximize harvest benefits for the king mackerel commercial sector in the Gulf by allowing the commercial quotas to be caught.

DATES: This rule is effective for the western, northern, and southern (gillnet) zones in the Gulf EEZ at 12:01 a.m., local time, on May 11, 2017. Unless changed by subsequent notification in the **Federal Register**, the effectiveness of this temporary rule continues until 12:01 a.m., local time, on July 1, 2017, for the western and southern (gillnet) zones, and for the northern zone, the effectiveness continues until 12:01 a.m., local time, on October 1, 2017.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS Southeast Regional Office, phone: 727-824-5305, email: *kelli.odonnell@noaa.gov*.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented by NMFS under the authority

of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Under 50 CFR 622.388(a) (1), NMFS is required to close the king mackerel commercial sector for the applicable zone or gear type for the remainder of the fishing year if landings reach, or are projected to reach, the applicable commercial quotas by filing a notification to that effect with the Office of the Federal Register. With the exception of the Florida east coast subzone, NMFS previously projected that the commercial quotas for Gulf migratory group king mackerel (Gulf king mackerel) would be reached for each of the other zones and published temporary rules to close the zones to commercial harvest in the Gulf EEZ prior to the end of the 2016-2017 fishing years.

On October 14, 2016, NMFS closed the commercial sector for king mackerel in the western zone (81 FR 71410, October 17, 2016).

On November 10, 2016, NMFS closed the commercial sector for king mackerel in the Florida west coast northern subzone of the eastern zone (81 FR 78941, November 10, 2016).

On February 10, 2017, NMFS closed the commercial sector for king mackerel in the Florida west coast southern subzone of the eastern zone for run-around gillnet gear (82 FR 10553, February 14, 2017).

On February 25, 2017, NMFS closed the commercial sector for king mackerel in the Florida west coast southern subzone of the eastern zone for hook-and-line gear (82 FR 11825, February 27, 2017).

On April 11, 2017, NMFS published a final rule to implement Amendment 26 to the FMP in the **Federal Register** (82 FR 17387). This final rule adjusted the management boundaries, zones, and ACLs for Gulf king mackerel that resulted in increased commercial quotas for each zone of the Gulf EEZ. The final rule established a new year-round boundary between the Gulf and Atlantic migratory groups of king mackerel at a line extending east from the boundary between Miami-Dade and Monroe Counties off the east coast of Florida to better represent the area where the two migratory groups primarily exist.

The final rule for Amendment 26 also simplified the names of the Gulf migratory group's Florida west coast northern and southern subzones of the eastern zone by changing them to the northern zone and southern zone, respectively. The dimensions of the northern zone did not change, but the southern zone now extends east to the new boundary between the Gulf and Atlantic migratory groups. The Florida east coast subzone no longer exists and the area is now part of the Atlantic migratory group. The name and dimensions of the Gulf migratory group's western zone remain the same.

The Gulf king mackerel western zone begins at the border of the United States and Mexico (near Brownsville, Texas) and continues in

the Gulf EEZ to the boundary of the northern and western zones at 87°31.1' W. long., which is a line directly south from the state border of Alabama and Florida.

The Gulf king mackerel northern zone is bounded by the western zone at 87°31.1' W. long., and the southern zone at 26°19'48" N. lat. off the west coast of Florida, which is a line directly east of the boundary of Lee and Collier Counties.

The Gulf king mackerel southern zone is bounded by the northern zone at 26°19'48" N. lat. off the west coast of Florida, and 25°20'24" N. lat. off the east coast of Florida, which is a line directly west of the boundary of Monroe and Miami-Dade Counties.

As specified in 50 CFR 622.7(b) (1) (i) through (iii), the fishing year for Gulf king mackerel in the western and southern zones is July 1 through June 30, and in the northern zone is October 1 through September 30.

The commercial quotas for king mackerel vary by zone and by gear type used to harvest the fish, as specified in 50 CFR 622.384(b) (1). The final rule for Amendment 26 increased the commercial quotas for king mackerel for each zone and gear type. All weights for the new commercial quotas below apply in either round or gutted weight. The commercial quota for the western zone during the 2016-2017 fishing year is 1,180,000 lb (535,239 kg). The commercial quota for the northern zone during the 2016-2017 fishing year is 531,000 lb

(240,858 kg). During the 2016-2017 fishing year, the southern zone commercial quota for hook-and-line gear is 619,500 lb (281,000 kg), and the southern zone commercial quota for run-around gillnet gear is 619,500 lb (281,000 kg).

As a result of these new quotas, additional commercial harvest of king mackerel will be allowed in the western, northern, and southern (gillnet) zones of the Gulf and these zones will reopen through this temporary rule. However, NMFS expects the western zone to be open for a limited time because over 94 percent of the new western zone commercial quota has been harvested. NMFS is not reopening the southern zone for hook-and-line gear in the 2016-2017 fishing year because landings have reached the new southern zone hook-and-line commercial quota. As a result of the final rule implementing Amendment 26, the southern zone includes the EEZ off the Florida Keys year-round, and this area is now subject to the Gulf southern zone hook-and-line closure that occurred on February 25, 2017 (82 FR 11825, February 27, 2017).

For the reasons stated above, and in accordance with 50 CFR 622.8(c), NMFS reopens the commercial sector for king mackerel in the western, northern, and southern (gillnet) zones of the Gulf EEZ at 12:01 a.m., local time, on May 11, 2017, and these zones will remain open through the remainder of the 2016-2017 fishing years or until the applicable commercial quotas are reached, whichever happens

first. Reopening these zones allows for additional opportunities to commercially harvest king mackerel.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Gulf king mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(c) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment on this temporary rule is unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations at 50 CFR 622.8(c) have already been subject to notice and comment, and all that remains is to notify the public that additional harvest is available under the established commercial

quotas and, therefore, the commercial sector for king mackerel in the western, northern, and southern (gillnet) zones of the Gulf EEZ will reopen.

Prior notice and an opportunity to comment is contrary to the public interest because NMFS previously determined the commercial quotas for king mackerel in the zones of the Gulf EEZ would be reached, and therefore, closed the commercial sector for king mackerel in these zones of the Gulf EEZ as stated above. However, following the implementation of Amendment 26, additional commercial quota of king mackerel is available for harvest during the 2016-2017 fishing year in each of the zones specified above. Reopening quickly is expected to help achieve optimum yield by making additional king mackerel available to consumers and resulting in revenue increases to commercial vessels.

For the aforementioned reasons, the AA also finds good cause

to waive the 30-day delay in the effectiveness of this action under
5 U.S.C. 553(d) (3) .

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 3, 2017.

Karen H. Abrams,
Acting Deputy Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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